

### **REMARKS**

The Non-Final Office Action mailed March 29, 2010, has been received and reviewed. Claims 1, 3-21, 23, 27-30 and 32 are pending in the subject application. Claims 1, 3-14, 19-21, 23, 27-30 and 32 have been rejected. Applicants wish to thank the Examiner for the indication of allowable subject matter in claims 15-18. Each of claims 1, 8-10, 19, 20, 23, 29 and 32 has been amended herein. Care has been taken to introduce no new matter. Reconsideration of the subject application is respectfully requested in view of the above amendments and the following remarks.

#### **Rejections based on 35 U.S.C. § 112**

Claims 1, 3-14, 19-21, 23, 27-30 and 32 were rejected under 35 U.S.C. § 112, first paragraph, as ostensibly failing to comply with the written description requirement. Claims 1, 3-14, 19-21, 23, 27-30 and 32 are amended herein to recite “average height” instead of “maximum height” in response to the remarks in the Office Action of March 29, 2010. Therefore, Applicants respectfully request withdrawal of the § 112 rejections of claims 1, 3-14, 19-21, 23, 27-30 and 32.

#### **Rejections based on 35 U.S.C. § 101**

Claims 19, 20, 23, 29 and 32 have been rejected under 35 U.S.C. § 101 because the claimed invention was ostensibly directed to non-statutory subject matter. Independent claim 19 is amended herein to recite “computer-readable nonvolatile storage medium” instead of “computer-readable memory medium.” As described in paragraph 0022 of the Specification, computer-storage media includes both volatile and nonvolatile media. Applicants respectfully submit that a “computer-readable nonvolatile storage medium” is statutory subject matter.

Therefore, Applicants respectfully request the withdrawal of the § 101 rejections of independent claim 19 and dependent claims 20, 23, 29 and 32.

### CONCLUSION

For at least the reasons stated above, claims 1, 3-21, 23, 27-30 and 32 are believed to be in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned—by telephone at 816-474-6550 or via email at mmsmith@shb.com (such communication via email is herein expressly granted)—to resolve the same prior to issuing a subsequent action.

It is believed that no fee is due in conjunction with the present communication. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112, referencing attorney docket number MFCP.151452.

Respectfully submitted,

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